



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Grillo-Lopez, et al.

Group Art Unit: 1644

Application Serial No. 09/436,348

Examiner: Ron Schwadron

Filed: 11 Novmeber 1999

Title: USE OF CHIMERIC ANTI-CD20 ANTIBODY AS *IN VITRO* OR *IN VIVO* PURGING AGENT IN PATIENTS BMT OR PBSC TRANSPLANT

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Affidavit by Robin L. Teskin
In Support of Supplemental Petition to Revive
Pursuant to 37 C.F.R. §1.1137(b) or 37 C.F.R. §1.181

Commissioner for Patents
Washington, D.C. 20231

RECEIVED

AUG 07 2002

Sir:

OFFICE OF PETITIONS

I, Robin L. Teskin, declare and state as follows:

- (1) That I am a registered patent attorney who has had primary responsibility for prosecution of this application and of IDEC's other United States and foreign prosecution matters since this application was initially filed on November 11, 1999.
- (2) That responsibility for prosecution of this application was transferred from the law firm of Shaw Pittman to Pillsbury Winthrop on November 28, 2001, the date I joined Pillsbury Winthrop as a partner.
- (3) That on that date responsibility for prosecution of between 1500-2000 active prosecution files was transferred to Pillsbury Winthrop.
- (4) That promptly and diligently upon receipt of these files into Pillsbury Winthrop's offices these 1500-2000 files were reviewed, docketed into our computerized docketing system, and letters to the United States Patent Office as well as to numerous foreign associates were mailed, advising them of the transfer of these matters to Pillsbury Winthrop. In fact, given the volume of this task, our U.S. and foreign docketing staff worked several

hundreds of overtime hours during the months of December and January processing transferred files.

(5) That while these procedures were in place, unfortunately a change of attorney for this particular application was not filed until July 9, 2001 (accepted by the U.S. Patent Office on July 26, 2001). Given the large number of transferred matters this was most likely the result of an unintentional human error.

(6) That this error should have not have resulted in non-receipt of the Restriction Requirement mailed on February 9, 2001. Rather, because of the fact that it would be anticipated that entry of all the changes of Power of Attorney correspondence could take several months to be processed by the numerous Patent Offices, and further because there existed the likelihood that some changes of Power of Attorney might not get entered timely enough to ensure that date sensitive documents were received in a timely manner by Pillsbury Winthrop, we had procedures in place to account for these contingencies. Particularly, we arranged for a courier from our office to pick up all faxes and mail correspondences received by Shaw Pittman for the six month period starting from November 28, 2000 and ending on May 28, 2001. This period included the time period when the February 9, 2001 Restriction Requirement should have been received by Shaw Pittman. That it is therefore impossible for the undersigned to provide a copy of a record from the undersigned's previous firm (Shaw Pittman) as required by MPEP 711.03(c) as by mutual agreement Shaw Pittman would have never entered the Restriction Requirement in their docket records even if the papers were received at Shaw Pittman. Based on these procedures, the Restriction Requirement, if received at Shaw Pittman should have been forwarded to the undersigned's new firm (Pillsbury Winthrop). As indicated in the attached copy of Pillsbury Winthrop's docket records for April 9, 2001, May 9, 2001, June 9, 2001, July 9, 2001 and August 9, 2001 as well as mail receipts for the time in February when this action should have been received, that there was no entry of the Restriction Requirement response which supports the fact that the Restriction Requirement was not received at Pillsbury Winthrop or it would have been on one of these docket records. Also attached is an affidavit by Ms. Margaret Jackson, the supervisor of Pillsbury Winthrop's Docket Department, attesting to the fact that the normal procedure was to promptly enter into the firm's docket records all official papers received from Shaw Pittman.

(7) That during this period I can attest to the fact that I or someone else at Pillsbury Winthrop daily reviewed correspondences received from Shaw Pittman which was voluminous initially, but eventually tapered off after the first 2-3 months as most of the changes of Power of Attorneys had been received and entered by the various patent offices and foreign associates. I can also attest to the fact that correspondences was diligently docketed into our docket system by our U.S. or foreign docket staff. Therefore, had this Restriction Reply been received from Shaw Pittman, it would have been docketed into our system, as were numerous other papers received by Shaw Pittman.

(8) That Shaw Pittman, because of the large number of transferred matters did not docket incoming papers after I left the firm. It was mutually decided that it would be more efficient to simply have a courier procure incoming papers daily, especially as many of the foreign associate correspondences was highly date sensitive and non-timely receipt might otherwise result in loss of rights.

(9) That based on the foregoing, I respectfully believe that procedures were in place by which, the February 9, 2001 Restriction Requirement should have been timely received in our offices, but unfortunately to the best of my information and belief, it was not until the application had already become abandoned.

(10) I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true.

8/2/02

Date

Robin L. Teskin

Robin L. Teskin